

§ 657.11 Evaluation of operations.

(a) The State shall submit its enforcement plan or annual update to the FHWA Division Office by July 1 of each year. However, if a State's legislative or budgetary cycle is not consonant with that date, the FHWA and the State may jointly select an alternate date. In any event, a State must have an approved plan in effect by October 1 of each year. Failure of a State to submit or update a plan will result in the State being unable to certify in accordance with § 657.13 for the period to be covered by the plan.

(b) The FHWA shall review the State's operation under the accepted plan on a continuing basis and shall prepare an evaluation report annually. The State will be advised of the results of the evaluation and of any needed changes in the plan itself or in its implementation. Copies of the evaluation reports and subsequent modifications resulting from the evaluation shall be forwarded to the FHWA's Office of Operations.

[59 FR 30418, June 13, 1994, as amended at 72 FR 7747, Feb. 20, 2007]

§ 657.13 Certification requirement.

Each State shall certify to the Federal Highway Administrator, before January 1 of each year, that it is enforcing all State laws respecting maximum vehicle size and weight permitted on what, prior to October 1, 1991, were the Federal-aid Primary, Secondary, and Urban Systems, including the Interstate System, in accordance with 23 U.S.C. 127. The States must also certify that they are enforcing and complying with the ISTEA freeze on the use of LCV's and other multi-unit vehicles. The certification shall be supported by information on activities and results achieved during the preceding 12-month period ending on September 30 of each year.

[59 FR 30418, June 13, 1994]

§ 657.15 Certification content.

The certification shall consist of the following elements and each element shall be addressed even though the response is negative:

(a) A statement by the Governor of the State, or an official designated by

the Governor, that the State's vehicle weight laws and regulations governing use of the Interstate System conform to 23 U.S.C. 127.

(b) A statement by the Governor of the State, or an official designated by the Governor, that all State size and weight limits are being enforced on the Interstate System and those routes which, prior to October 1, 1991, were designated as part of the Federal-aid Primary, Urban, and Secondary Systems, and that the State is enforcing and complying with the provisions of 23 U.S.C. 127(d) and 49 U.S.C. 31112. Urbanized areas not subject to State jurisdiction shall be identified. The statement shall include an analysis of enforcement efforts in such areas.

(c) Except for Alaska and Puerto Rico, the certifying statements required by paragraphs (a) and (b) of this section shall be worded as follows (the statements for Alaska and Puerto Rico do not have to reference 23 U.S.C. 127(d) in (c)(2), or include paragraph (c)(3) of this section):

I, *(name of certifying official)*, *(position title)*, of the State of _____ do hereby certify:

(1) That all State laws and regulations governing vehicle size and weight are being enforced on those highways which, prior to October 1, 1991, were designated as part of the Federal-aid Primary, Federal-aid Secondary, or Federal-aid Urban Systems;

(2) That the State is enforcing the freeze provisions of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127(d) and 49 U.S.C. 31112); and

(3) That all State laws governing vehicle weight on the Interstate System are consistent with 23 U.S.C. 127 (a) and (b).

(d) If this statement is made by an official other than the Governor, a copy of the document designating the official, signed by the Governor, shall also be included in the certification made under this part.

(e) A copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State's last certification and an analysis of the changes made.

(f) A report of State size and weight enforcement efforts during the period

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covered by the certification which addresses the following:

(1) Actual operations as compared with those forecast by the plan submitted earlier, with particular attention to changes in or deviations from the operations proposed.

(2) Impacts of the process as actually applied, in terms of changes in the number of oversize and/or overweight vehicles.

(3) *Measures of activity*—(i) *Vehicles weighed*. Separate totals shall be reported for the annual number of vehicles weighed on fixed scales, on semiportable scales, on portable scales, and on WIM when used for enforcement.

(ii) *Penalties*. Penalties reported shall include the number of citations or civil assessments issued for violations of each of the following: Axle, gross and bridge formula weight limits. The number of vehicles whose loads are either shifted or offloaded must also be reported.

(iii) *Permits*. The number of permits issued for overweight loads shall be reported. The reported numbers shall specify permits for divisible and non-divisible loads and whether issued on a trip or annual basis.

[59 FR 30418, June 13, 1994, as amended at 62 FR 10181, Mar. 5, 1997; 72 FR 7747, Feb. 20, 2007]

§ 657.17 Certification submittal.

(a) The Governor, or an official designated by the Governor, shall submit the certification to the FHWA division office prior to January 1 of each year.

(b) The FHWA division office shall forward the original certification to the FHWA's Office of Operations and one copy to the Office of Chief Counsel. Copies of appropriate evaluations and/or comments shall accompany any transmittal.

[72 FR 7747, Feb. 20, 2007]

§ 657.19 Effect of failure to certify or to enforce State laws adequately.

If a State fails to certify as required by this regulation or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle sizes and weights on the Interstate System and

those routes which, prior to October 1, 1991, were designated as part of the Federal-aid primary, Federal-aid secondary or Federal-aid urban systems, notwithstanding the State's certification, the Federal-aid funds for the National Highway System apportioned to the State for the next fiscal year shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104, and/or by the amount required pursuant to 23 U.S.C. 127.

[72 FR 7747, Feb. 20, 2007]

§ 657.21 Procedure for reduction of funds.

(a) If it appears to the Federal Highway Administrator that a State has not submitted a certification conforming to the requirements of this regulation, or that the State is not adequately enforcing State laws respecting maximum vehicle size and weight, including laws applicable to vehicles using the Interstate System with weights or widths in excess of those provided under 23 U.S.C. 127, the Federal Highway Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the State of the proposed determination by certified mail. The notice shall state the reasons for the proposed determination and inform the State that it may, within 30 days from the date of the notice, request a hearing to show cause why it should not be found in nonconformity. If the State informs the Administrator before the end of this 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for requesting a hearing. In the event of a request for informal resolution, the State and the Administrator (or designee) shall promptly schedule a meeting to resolve the matter.

(b) In all instances where the State proceeds on the basis of informal resolution, a transcript of the conference will be made and furnished to the State by the FHWA.

(1) The State may offer any information which it considers helpful to a resolution of the matter, and the scope of review at the conference will include,